

REMARKS

By this Amendment, claim 1 has been amended. Accordingly, claims 1-15 are pending in this application. The amendment to claim 1 is fully supported by the originally filed application. Accordingly, no new matter has been added by this Amendment.

In the final Office Action dated February 9, 2005, claims 1-15 were rejected under 35 U.S.C. § 103(a), as obvious over U.S. Patent No. 2,697,433 to Zehnder ("Zehnder") in view of U.S. Patent No. 3,457,922 to Ray ("Ray").

Applicants respectfully traverse the rejection of claim 1 as obvious over Zehnder in view of Ray. Zehnder does not disclose or suggest, among other things, an apparatus having a pivot disposed substantially completely above a top surface of the base, as recited by amended independent claim 1. As shown in Applicants' FIG. 2B, the pivot is "situated above the base plate 220 and within the guide platform 230." (Application, page 14, lines 4-5.) An imaging grid 290 and is located "along the top surface of the base plate 220" and is disposed between the pivot cylinder 234 and the base plate 220 along the entire length of the pivot cylinder 234. (Application, page 24, lines 13-15.) Thus, the pivot cylinder 234 is disposed substantially completely above the top surface of the base plate 220.

The pivot of the Zehnder assembly, on the other hand, is not disposed substantially completely above a top surface of the base. Instead, Zehnder's ball-like lower end is mounted substantially within a ring member as shown in FIG. 4, and the ring member is mounted substantially within a circular hole in the midportion of a carriage of the assembly. Thus, both the ring member and the lower end are located

substantially within the midportion of the carriage. Although, as noted by the Examiner, a portion of the pivot may extend to a point above the carriage, Zehnder does not disclose or suggest a pivot disposed substantially completely above a top surface of the base as required by amended independent claim 1.

Ray does not cure this deficiency. Instead, the tripod base of Ray includes a ball disposed within a clamping ring. As shown in FIG. 1, the clamping ring is located substantially within the tripod base and the ball can be "locked" in position by a complimentary surface of the clamping ring. (Ray, col. 3, lines 1-3.) Positioning the ball within the clamping ring, and, thus, within the tripod base, facilitates this locking. Thus, the ball of Ray is located substantially within the tripod base and although a portion of the ball may extend above the tripod base, the ball is not disposed substantially completely above a top surface of the base as required by claim 1.

Since Zehnder fails to disclose or suggest, among other things, a pivot disposed substantially completely above a top surface of the base, either alone or in combination with Ray, Applicants traverse the Examiner's rejection of independent claim 1. Reconsideration is respectfully requested.

Claims 2-15 depend directly or indirectly from independent claim 1, and are therefore allowable for at least the same reasons stated above with regard to claim 1. In addition, each of these dependent claims recites unique combinations that are neither taught nor suggested by the cited art, and therefore each are also separately patentable.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-15 in condition for allowance. Applicants

submit that the proposed amendment of claim 1 does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were earlier claimed in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of the Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The final Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the final Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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